

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHAEL LEE KOMIN, M.D.

Physician's & Surgeon's
Certificate No. A76214

Respondent.

MBC File # 800-2015-014944

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "TOTAL HOURS OF CME" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error in the "total hours of CME" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the total hours of CME will conform to the Board's issued order.

IT IS HEREBY ORDERED that the total hours of CME contained in the Decision, page 4, line 18, in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "45."

IT IS SO ORDERED: February 6, 2018



Ronald Lewis, M.D.
Chair
Panel A

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

MICHAEL LEE KOMIN, M.D.

Physician's & Surgeon's
Certificate No. A76214

Respondent.

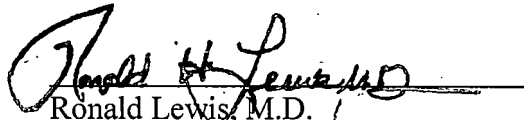
MBC File # 800-2015-014944

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "TOTAL YEARS OF PROBATION" PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error in the "total years of probation" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the total years of probation will conform to the Board's issued license.

IT IS HEREBY ORDERED that the total years of probation contained in the Decision page 4, line 9, in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the decision to read as "three (3)".

IT IS SO ORDERED: January 24, 2018


Ronald Lewis, M.D.
Chair
Panel A

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

MICHAEL LEE KOMIN, M.D.)

Case No. 800-2015-014944

**Physician's and Surgeon's)
Certificate No. A76214)**

Respondent)

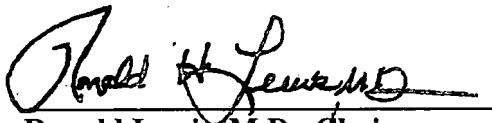
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on February 9, 2018.

IT IS SO ORDERED: January 10, 2018.

MEDICAL BOARD OF CALIFORNIA



**Ronald Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
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8 *Attorneys for Complainant*

9
10
11 **BEFORE THE**
12 **MEDICAL BOARD OF CALIFORNIA**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

14 In the Matter of the Accusation Against:

15 **MICHAEL LEE KOMIN, M.D**
16 **1150 E. Lerdo Hwy, Ste. C**
Shafter, CA 93263

17 **Physician's and Surgeon's Certificate No. A**
18 **76214**

19 Respondent.

Case No. 800-2015-014944

OAH No. 2017050158

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Megan R.
27 O'Carroll, Deputy Attorney General.

28 ///

1 2. Respondent Michael Lee Komin, M.D (Respondent) is represented in this proceeding
2 by attorney Gregory M. Hulbert, whose address is: 734 Silver Spur Rd., Ste 306 Rolling Hills
3 Estates, CA 90274-3667.

4 3. On or about August 15, 2001, the Board issued Physician's and Surgeon's Certificate
5 No. A 76214 to Michael Lee Komin, M.D (Respondent). The Physician's and Surgeon's
6 Certificate was in full force and effect at all times relevant to the charges brought in Accusation
7 No. 800-2015-014944, and will expire on June 30, 2017, unless renewed.

8 JURISDICTION

9 4. Accusation No. 800-2015-014944 was filed before the Board, and is currently
10 pending against Respondent. The Accusation and all other statutorily required documents were
11 properly served on Respondent on April 10, 2017. Respondent timely filed his Notice of Defense
12 contesting the Accusation.

13 5. A copy of Accusation No. 800-2015-014944 is attached as exhibit A and incorporated
14 herein by reference.

15 ADVISEMENT AND WAIVERS

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 800-2015-014944. Respondent has also carefully read,
18 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
19 Disciplinary Order.

20 7. Respondent is fully aware of his legal rights in this matter, including the right to a
21 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
22 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
23 to the issuance of subpoenas to compel the attendance of witnesses and the production of
24 documents; the right to reconsideration and court review of an adverse decision; and all other
25 rights accorded by the California Administrative Procedure Act and other applicable laws.

26 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
27 every right set forth above.

28 ///

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2015-014944, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges. In all other proceedings before the Board, including petitions for penalty relief, or
9 modification, all of the charges and allegations contained in the Accusation No. 800-2015-014944
10 shall be deemed to be true, correct and admitted by Respondent.

11 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
12 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
13 Disciplinary Order below.

14 CONTINGENCY

15 12. This stipulation shall be subject to approval by the Medical Board of California.
16 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
17 Board of California may communicate directly with the Board regarding this stipulation and
18 settlement, without notice to or participation by Respondent or his counsel. By signing the
19 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
20 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
21 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
22 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
23 action between the parties, and the Board shall not be disqualified from further action by having
24 considered this matter.

25 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
26 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
27 signatures thereto, shall have the same force and effect as the originals.
28

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 76214 issued to Respondent Michael Lee Komin, M.D is revoked. However, the revocation is stayed and Respondent is placed on probation for ~~five (5)~~ ^{THREE (3)} years on the following terms and conditions.

1. STANDARD STAY ORDER. However, revocation stayed and Respondent is placed on probation for five years upon the following terms and conditions.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 20 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 20 hours were in satisfaction of this condition.

3. CLINICAL COMPETENCE ASSESSMENT PROGRAM. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a clinical competence assessment program approved in advance by the Board or its designee. Respondent shall successfully complete the program not later than six (6) months after Respondent's initial enrollment unless the Board or its designee agrees in writing to an extension of that time.

The program shall consist of a comprehensive assessment of Respondent's physical and mental health and the six general domains of clinical competence as defined by the Accreditation Council on Graduate Medical Education and American Board of Medical Specialties pertaining to Respondent's current or intended area of practice. The program shall take into account data

1 obtained from the pre-assessment, self-report forms and interview, and the Decision(s),
2 Accusation(s), and any other information that the Board or its designee deems relevant. The
3 program shall require Respondent's on-site participation for a minimum of three (3) and no more
4 than five (5) days as determined by the program for the assessment and clinical education
5 evaluation. Respondent shall pay all expenses associated with the clinical competence
6 assessment program.

7 At the end of the evaluation, the program will submit a report to the Board or its designee
8 which unequivocally states whether the Respondent has demonstrated the ability to practice
9 safely and independently. Based on Respondent's performance on the clinical competence
10 assessment, the program will advise the Board or its designee of its recommendation(s) for the
11 scope and length of any additional educational or clinical training, evaluation or treatment for any
12 medical condition or psychological condition, or anything else affecting Respondent's practice of
13 medicine. Respondent shall comply with the program's recommendations.

14 Determination as to whether Respondent successfully completed the clinical competence
15 assessment program is solely within the program's jurisdiction.

16 If Respondent fails to enroll, participate in, or successfully complete the clinical
17 competence assessment program within the designated time period, Respondent shall receive a
18 notification from the Board or its designee to cease the practice of medicine within three (3)
19 calendar days after being so notified. The Respondent shall not resume the practice of medicine
20 until enrollment or participation in the outstanding portions of the clinical competence assessment
21 program have been completed. If the Respondent did not successfully complete the clinical
22 competence assessment program, the Respondent shall not resume the practice of medicine until a
23 final decision has been rendered on the accusation and/or a petition to revoke probation. The
24 cessation of practice shall not apply to the reduction of the probationary time period.]

25 Within 60 days after Respondent has successfully completed the clinical competence
26 assessment program, Respondent shall participate in a professional enhancement program
27 approved in advance by the Board or its designee, which shall include quarterly chart review,
28 semi-annual practice assessment, and semi-annual review of professional growth and education.

Respondent shall participate in the professional enhancement program at Respondent's expense during the term of probation, or until the Board or its designee determines that further participation is no longer necessary.

4. MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a practice monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose licenses are valid and in good standing, and who are preferably American Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or personal relationship with Respondent, or other relationship that could reasonably be expected to compromise the ability of the monitor to render fair and unbiased reports to the Board, including but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

The Board or its designee shall provide the approved monitor with copies of the Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed statement for approval by the Board or its designee.

Within 60 calendar days of the effective date of this Decision, and continuing throughout probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall make all records available for immediate inspection and copying on the premises by the monitor at all times during business hours and shall retain the records for the entire term of probation.

If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective date of this Decision, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring responsibility.

1 The monitor(s) shall submit a quarterly written report to the Board or its designee which
2 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
3 are within the standards of practice of practice and whether Respondent is practicing medicine
4 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
5 that the monitor submits the quarterly written reports to the Board or its designee within 10
6 calendar days after the end of the preceding quarter.

7 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
8 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
9 name and qualifications of a replacement monitor who will be assuming that responsibility within
10 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
11 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
12 notification from the Board or its designee to cease the practice of medicine within three (3)
13 calendar days after being so notified. Respondent shall cease the practice of medicine until a
14 replacement monitor is approved and assumes monitoring responsibility.

15 In lieu of a monitor, Respondent may participate in a professional enhancement program
16 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
17 review, semi-annual practice assessment, and semi-annual review of professional growth and
18 education. Respondent shall participate in the professional enhancement program at Respondent's
19 expense during the term of probation.

20 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
21 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
22 Chief Executive Officer at every hospital where privileges or membership are extended to
23 Respondent, at any other facility where Respondent engages in the practice of medicine,
24 including all physician and locum tenens registries or other similar agencies, and to the Chief
25 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
26 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
27 calendar days.

28 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

1 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
2 NURSES. During probation, Respondent is prohibited from supervising physician assistants ^{and}
3 ~~advanced practice nurses~~)

4 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
5 governing the practice of medicine in California and remain in full compliance with any court
6 ordered criminal probation, payments, and other orders.

7 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
8 under penalty of perjury on forms provided by the Board, stating whether there has been
9 compliance with all the conditions of probation.

10 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
11 of the preceding quarter.

12 9. GENERAL PROBATION REQUIREMENTS.

13 Compliance with Probation Unit

14 Respondent shall comply with the Board's probation unit.

15 Address Changes

16 Respondent shall, at all times, keep the Board informed of Respondent's business and
17 residence addresses, email address (if available), and telephone number. Changes of such
18 addresses shall be immediately communicated in writing to the Board or its designee. Under no
19 circumstances shall a post office box serve as an address of record, except as allowed by Business
20 and Professions Code section 2021(b).

21 Place of Practice

22 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
23 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
24 facility.

25 License Renewal

26 Respondent shall maintain a current and renewed California physician's and surgeon's
27 license.

28 ///

1 Travel or Residence Outside California

2 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
3 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
4 (30) calendar days.

5 In the event Respondent should leave the State of California to reside or to practice
6 ,Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
7 departure and return.

8 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
9 available in person upon request for interviews either at Respondent's place of business or at the
10 probation unit office, with or without prior notice throughout the term of probation.

11 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
12 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
13 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
14 defined as any period of time Respondent is not practicing medicine as defined in Business and
15 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
16 patient care, clinical activity or teaching, or other activity as approved by the Board. If
17 Respondent resides in California and is considered to be in non-practice, Respondent shall
18 comply with all terms and conditions of probation. All time spent in an intensive training
19 program which has been approved by the Board or its designee shall not be considered non-
20 practice and does not relieve Respondent from complying with all the terms and conditions of
21 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
22 on probation with the medical licensing authority of that state or jurisdiction shall not be
23 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
24 period of non-practice.

25 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
26 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
27 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
28 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model

Disciplinary Orders and Disciplinary Guidelines” prior to resuming the practice of medicine.

Respondent’s period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing

12. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent’s certificate shall be fully restored.

13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.


14. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent’s request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent’s wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the

1 application shall be treated as a petition for reinstatement of a revoked certificate.

2 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
3 with probation monitoring each and every year of probation, as designated by the Board, which
4 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
5 California and delivered to the Board or its designee no later than January 31 of each calendar
6 year.

7 ACCEPTANCE

8 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
9 discussed it with my attorney, Gregory M. Hulbert. I understand the stipulation and the effect it
10 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
11 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
12 Decision and Order of the Medical Board of California.

13
14 DATED: 10/27/17 
15 MICHAEL LEE KOMIN, M.D.
Respondent

16 I have read and fully discussed with Respondent Michael Lee Komin, M.D the terms and
17 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
18 I approve its form and content.

19 DATED: 10/27/17 
20 GREGORY M. HULBERT
21 Attorney for Respondent

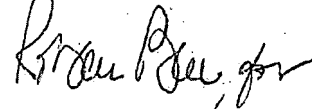
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated:

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



MEGAN R. O'CARROLL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-014944

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Attorney General of California
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3 MEGAN R. O'CARROLL
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO 0021 10 20 17
BY *[Signature]* ANALYST

10 BEFORE THE
11 MEDICAL BOARD OF CALIFORNIA
12 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2015-014944

14 Michael Lee Komin, M.D.
15 1150 E LERDO HWY, STE. C
SHAFTER, CA 93263

ACCUSATION

16 Physician's and Surgeon's Certificate
17 No. A 76214,

18 Respondent.

19 Complainant alleges:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about August 15, 2001, the Medical Board issued Physician's and Surgeon's
25 Certificate No. A 76214 to Michael Lee Komin, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on June 30, 2017, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws.

All section references are to the Business and Professions Code (Code), unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

1 “(f) Any action or conduct which would have warranted the denial of a certificate.

2 “(g) The practice of medicine from this state into another state or country without meeting
3 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
4 apply to this subdivision. This subdivision shall become operative upon the implementation of the
5 proposed registration program described in Section 2052.5.

6 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
7 participate in an interview by the board. This subdivision shall only apply to a certificate holder
8 who is the subject of an investigation by the board.”

9 6. Section 2266 of the Code states: “The failure of a physician and surgeon to maintain
10 adequate and accurate records relating to the provision of services to their patients constitutes
11 unprofessional conduct.”

12 FACTS

13 7. Respondent is in private practice as a family practitioner in Fresno, California. Patient
14 J.S.¹ was a sixty-year-old woman when she began seeing Respondent for primary care in 2011.
15 J.S. was being followed for a variety of chronic conditions including type II diabetes, history of
16 stroke, and hypertension. Respondent saw J.S. several times per year between 2011 and 2014.
17 Respondent’s medical records throughout her care at his practice were often poorly documented
18 with key information missing as to J.S.’s condition and treatment plan, as well as inconsistent
19 notes of symptoms.

20 8. On or about February 15, 2012, J.S. saw Respondent for an appointment. The Medical
21 Assistant documented that J.S. was “here to have a blood test” and for “diabetes follow up.” J.S.’s
22 blood pressure was noted to be 177/79. The progress note did not clarify what blood test J.S. was
23 requesting, and did not list all of the chronic conditions J.S. was being treated for. J.S. was noted
24 to be on warfarin 5 mg per day at this visit. Respondent did not document why J.S. was on
25 warfarin or when her next warfarin monitoring blood test was required. Although J.S. had
26 diabetes, and her treatment records at Respondent’s practice sometimes listed Insulin or Lantus

27 ¹ The patient is referred to by her initials in this Accusation in order to preserve her
28 privacy.

1 insulin on the medication list, there was no diabetes treatment listed under the medication list for
2 this visit.

3 9. On or about August 21, 2012, J.S. saw Respondent again. There was no documented
4 history of present illness or list of chronic conditions. Respondent's visit note contained both that
5 J.S. had headaches and that she had no headaches, with no clarification as to which statement was
6 correct. The Medical Assistant documented J.S.'s chief complaint was "c/o needing follow up on
7 RX., lab results...No problems...Three month physical...medication refill." J.S.'s blood pressure
8 was noted to be 154/99. Warfarin was no longer on the medication list, although the reason for
9 this was not documented. Respondent's documented assessment for this visit was "Dysthymic
10 disorder," and Prozac was prescribed but there was no supporting psychiatric history explaining
11 the assessment or prescription. There was no documentation of home blood sugar monitoring or
12 lifestyle issues such as diet or activity level. There was no documentation addressing the fact that
13 J.S.'s A1C test result showed her level to be higher than the target level for her condition.

14 10. On or about February 5, 2013, at an appointment with J.S., Respondent documented
15 that he was increasing her warfarin from 2.5 milligrams daily to 5 milligrams daily. There was no
16 explanation of the basis for the change and corresponding anti-coagulation test in the record for
17 this date. Respondent recommended anti-coagulation testing be done one week in the future. On
18 the occasions when warfarin appeared in J.S.'s list of medications, it was listed as being 5
19 milligrams. An anticoagulation test result of 0.87 was present in the records dated July 27, 2013,
20 which is below the therapeutic level for J.S. Respondent did not address that test finding in the
21 records or alter the treatment plan accordingly.

22 11. On many occasions when J.S. saw Respondent, her blood pressure was elevated. For
23 example, on or about October 3, 2013 her blood pressure was 161/90, on or about January 9,
24 2014, it was 170/84, and on or about April 16, 2014, it was 155/85. Although hypertension was
25 noted in the progress reports of most of J.S.'s visits, there were no adjustment of anti-
26 hypertensive medications with rechecks to ensure the condition was controlled.

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1 12. On or about July 31, 2014, J.S.'s A1C test result was reported to be 8.1%, which was
2 again higher than the target level and an increase from previous test results. Although the test
3 result had Respondent's initials next to it, indicating that he reviewed it, there is no corresponding
4 documentation that he discussed it with J.S. or altered the treatment plan to address it. At the July
5 31, 2014 visit, J.S.'s blood pressure was 143/79. The chief complaint noted at this visit was
6 insomnia, but there was no description under history of present illness clarifying the difficulty
7 with sleep and no review of systems to evaluate any psychological distress or current life
8 stressors. No assessment or treatment of insomnia was recorded, so it is not clear whether J.S.
9 really was suffering from insomnia.

10 13. On or about October 22, 2014, J.S. saw Respondent for a follow up appointment after
11 she was seen in the Emergency Department. Respondent did not document why J.S. was seen in
12 the Emergency Room or that he had obtained or attempted to obtain the Emergency Room record
13 or even what the diagnosis and treatment was at the Emergency Room. J.S.'s blood pressure was
14 noted to be 155/86, and the physical examination documented abnormal cognitive function,
15 confusion, disorientation, with mood abnormality and impaired thought processes. There was no
16 documented history of present illness to clarify these abnormal findings. There was no imagining
17 done to assess the conditions and no toxicology screening or other metabolic testing was ordered
18 to assist with the diagnosis of J.S.'s mental status abnormalities. J.S.'s office glucose reading was
19 206. Respondent noted the management plan for this visit was for J.S. to return to the clinic if the
20 conditions worsened or new symptoms arose. J.S.'s blood pressure at this visit was 152/86.

21 14. On or about January 19, 2014, J.S. appeared for a visit with Respondent that the
22 Medical Assistant documented as "three month follow up" and "follow up blood pressure." At
23 this visit, the medical record stated both that J.S. had abdominal pain and that she did not. The
24 physical examination did not contain any description of abdominal pain. The assessments for the
25 visit stated "working diagnosis of abdominal pain," "abdominal pain," essential hypertension,"
26 and "type 2 diabetes." It is not clear whether J.S. had abdominal pain or not or whether it was
27 significant. J.S.'s blood pressure at this visit was 170/84.

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1 15. On or about April 10, 2014, J.S.'s tests showed a hemoglobin A1C level of 9.1%.
2 J.S.'s next office visit with Respondent after this test result was reported occurred on or about
3 April 16, 2014. At the April 16, 2014 visit, Respondent did not address the out of control
4 diabetes, or alter the diabetes treatment plan. The plan was to follow up in three months. During
5 his care of J.S., Respondent never ordered a urine microalbumin test or titrated the Lisinopril to
6 its maxim dose in order to attempt to protect J.S.'s kidneys.

7 16. On or about September 29, 2014, J.S. refilled Coumadin at the pharmacy using a
8 prescription that was renewed by Respondent's Medical Assistant without his input, under what
9 he stated is an office policy that Medical Assistant may authorize refills of medications deemed to
10 be "maintenance therapy."

11 17. Respondent stated that J.S. had coagulation testing on or about October 12, 2014,
12 which showed the INR (anticoagulation testing) to be 1.06, although these tests do not appear in
13 J.S.'s medical record. The last documented appointment between Respondent and J.S. was
14 October 30, 2014. At that appointment, J.S. reported being out of Coumadin, and Respondent
15 refilled it, but did not order coagulation testing at that time because J.S. stated she had not taken
16 her Coumadin for several days. Respondent indicated that he planned to do the coagulation
17 testing in the future. J.S. did not fill the October 30, 2014 order for Coumadin until three weeks
18 later, on November 23, 2014.

19 18. On or about November 24, 2014, J.S. returned to Respondent's practice for a flu shot,
20 which was administered by the Medical Assistant, and Respondent did not see J.S. On or about
21 January 30, 2015, J.S. obtained yet another refill of Coumadin authorized from Respondent's
22 practice. J.S. died on or about February 18, 2015 of a brain bleed associated with an overdose of
23 Coumadin.

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Gross Negligence)**

26 19. Respondent Michael Lee Komin, M.D. is subject to disciplinary action under section
27 2234, subsection (b), of the Code in that he committed gross negligence in the care and treatment
28 of Patient J.S.

20. Respondent's treatment of J.S. as described in Paragraphs 7 through 18, above, was grossly negligent in that each of the following represents a separate and extreme departure from the standard of care:

(a) Respondent failed to provide adequate and appropriate care to J.S. when she presented at his office on or about October 22, 2014 with complaints of altered mental status;

(b) Respondent failed to properly evaluate and treat J.S. for hypertension;

(c) Respondent failed to properly treat and manage J.S.'s type II diabetes and to monitor for complications;

(d) Respondent failed to properly monitor J.S.'s use of long term warfarin; and

(e) Respondent failed to keep complete and accurate medical records for J.S.

SECOND CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

21. Respondent Michael Lee Komin, M.D. is subject to disciplinary action under section 2234, subsection (c), of the Code, in that he was repeatedly negligent in the care and treatment of Patient J.S.

22. Respondent's treatment of J.S. as described in Paragraphs 7 through 18, above, was repeatedly negligent in that each of the following represents a separate departure from the standard of care:

(a) Respondent failed to provide adequate and appropriate care to J.S. when she presented at his office on or about October 22, 2014 with complaints of altered mental status;

(b) Respondent failed to properly evaluate and treat J.S. for hypertension;

(c) Respondent failed to properly treat and manage J.S.'s type II diabetes and to monitor for complications;

(d) Respondent failed to properly monitor J.S.'s use of long term warfarin; and

(e) Respondent failed to keep complete and accurate medical records for J.S.

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1 3. Ordering Respondent Michael Lee Komin, M.D., if placed on probation, to pay the
2 Board the costs of probation monitoring; and

3 4. Taking such other and further action as deemed necessary and proper.

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5 DATED: April 10, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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